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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Anthony Haber

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8791

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08/03/2006

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EXAMINER

ABDI, KAMBIZ

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/898,896

Applicant(s)

HABER ET AL.

Examiner

Kambiz Abdi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.

- Claim 2 has been amended.
- Claim 1 is canceled.
- Claims 2-23 have been considered.

2. Examiner has noticed that the applicant has pointed out that new drawings have been submitted (Response dated November 28, 2005) however, examiner has not been able to locate such new drawings in the IFW system clarification is requested.

3. Claim object to claims 1 and 2 has been withdrawn based on cancellation of claim one.

4. Examiner withdraws rejection of claims 14 and 40 under 35 U.S.C 112-second paragraphs due to correction by the applicant.

5. The Requirement for Information Under 37 C.F.R. 1.105 has been satisfied at this point. Applicant has submitted documents in accordance with the requirement on May 8, 2006.

6. Examiner would also like to point out that Official Notice was used in the office actions mailed on May 25, 2005 to indicate that it is old and well known in the art that data integration and translation of common data in disparate computer locations and synchronization and transfer of such data from one computer to another is well known in the art, as well as, well known practice of such consolidation of collected data includes standardization, consolidation or correlation of the information gathered from different sources and supplies it to an analyzer and report generator that provides the information to a user in a format that is easier to use. Since applicant has not attempted to traverse this Official Notice statement, examiner is taking the common knowledge or well-known statement to be admitted prior art. Additionally, the examiner has provided sufficient evidence in support of such well known practices in the art by citing patents as well as publications.

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***Response to Arguments***

7. Applicant's arguments filed November 11, 2005 and May 8, 2006 have been fully considered but they are not persuasive for the following reasons in addition to new ground of rejection presented below:

8. In response to applicant argument regarding rejection of Claim 1 under 35 U.S.C. § 102 as being anticipated by Walker, examiner disagrees with the applicant's characterization of the prior art. The Walker '878 clearly discloses the agent (300) involved in the process of purchase the goods or services offered by the other entities in the system. Also it is clearly disclosed by the Walker '878 that there are attributes associated with the goods and services available to the buyers, here in Walker '878 the Figures 5-9 clearly disclose the attributes that are specific to the product as they specify for example that need is for airline tickets and the airlines available are American and Delta and the dates are specific to dates requested and specific pricing. Attributes mentioned above are clearly specific to the offers made by the sellers, buyers and any other entities.

9. Moreover, the applicant submitted documents on May 8, 2006 clearly discloses the use of claimed invention in 1999 more than one year prior to the filing date of the current application. For example the document titled "User's Guide, CHROME.COM, Defining| The Electronic Car Market" clearly discloses the added limitation in claim 1 as to clearly disclose that manufacturer as well as model specific attributes for a vehicle (See screen shots in page 17 of the "User's Guide"). Also in the background of the applicant's specification it is clearly disclosed the such attributes are well known in the art as means of identification of products (See specification page2, line 5-16).

10. Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987). Thus, the structural limitations of claim 1, including a storage medium, a

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collaboration agent are disclosed in *Walker et al '878* as described above. Also, as described above, the functional limitations in claim 1 do not distinguish the claimed apparatus from the prior art.

### ***Drawings***

12. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the screen captures are not clear as well as within the standard of the MPEP. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

14. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear to the examiner what the "higher-level application" means. The arguments provided by the applicant have not alleviated the confusion of what constitutes the "higher-level applications". There are no clear distinctions of what is meant by the "higher-level applications". Applicant in page 14 of the office action points to figure 2 and page 9 of the specification to remedy this deficiency. There are no clear distinguishing criteria for the level of the software, application, machine language or instruction that are distinguished over other software, application, machine language, or instruction that the examiner can rely on. There is no clear definition of the phrase "Higher-level applications".

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***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,794,207 to Jay S. Walker.

17. As per claims 2-4, 13, 14, Walker clearly teaches an apparatus comprising:

To conduct a commercial collaboration amongst disparate participants, having and storage medium to store rules (See Walker figures 1-4 and associated text, column 8, line 28- column 9, line 51, column 12, lines 54-68). Apparatus comprises, a collaborative engine, control logic, network interface, network being Internet capable, memory, and management application (See Walker figures 1-4 and associated text, column 10, lines 8-56).

to provide, at least in part, product inventory information from participating sellers, dealers and/or manufacturers including, at least, provider-specific product attributes (See screen shots in page 17 of the "User's Guide").

18. As per claim 6, Walker teaches all the limitations of claim 5, further, Walker teaches the user interface applications further comprises a GUI interface.

19. As per claim 9, Walker teaches all the limitations of claim 3, further the memory comprises:  
a rules data element; and a search/transaction history data element (See Walker column 12, lines 54-68, column 13, lines 59-62, column 18, lines 14-55).

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20. As per claim 10, Walker teaches all the limitations of claim 9, wherein the memory further comprises volatile or non-volatile memory (See Walker column 12, lines 3-7 and lines 54-68).

21. As per claims 21-23, Walker teaches all the limitations of claim 7, further comprising a collaboration rules database which, when invoked by the search rules engine, identifies and divides collaboration partners into preferential tiers based, at least in part on the collaboration rules (See walker column 13, lines 30-62, column 19, lines 29-44), a seller identification field; and a collaboration partner identification field (See Walker column 2, lines 16-26, column 7, line 66-column 8, line 2, column 13, lines 11-62, column 19, lines 29-44).

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 5-23 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 5,794,207 to Jay S. Walker et al.

24. As per claim 5, Walker teaches all the limitations of claim 2, wherein the collaboration agent further comprises:

statistical tool applications; report generation tool applications; and user interface applications (See Walker column 12, lines 54-68 and column 13, lines 59-62).

What is not clear in Walker is a comprehensive reporting details. However, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to utilize

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enhanced methods and systems of reporting and statistical analysis of data collected in a database for expanded understanding of the systems performance in a business environment as well as enhanced knowledge of the volume or any other aspects of conducted transactions.

25. As per claims 7-8, and 17-20 Walker teaches all the limitations of claim 3, further the collaboration agent further comprises:

a database manager to populate and manage information resident within associated databases; a search rules engine for searching data structures; and a data translator (See Walker figure 8, column 12, lines 54-68, column 18, lines 44-60). What is not specific by Walker teaching is the data translator. However, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to know that and it would be essential in order to display the information on a GUI such as a browser on internet, one has to translate XML data and HTML codes collected from a database via a server. Or even if there is a CGI script to collect information and display it in a GUI such as a browser it would be essential to translate the information.

Additionally data integration and translation of common data in disparate computer location and synchronization and transfer of such data from one computer to another is well known in the art. It is a common practice to use EDIs or APIs to move data from one database to another and utilizing these applications to manage the dissimilarity of type of the data. For example U.S. Patent No. 4,714,995 to Anthony Materna is clearly teaching the integration of different data in separate databases. However, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to have the utility of data translation for consistency of the data among disparate computer systems with common data elements for better efficiency and integrity of the data collected.

26. As per claims 11 and 15, Walker teaches all the limitations of claims 2 and 7, the storage medium further comprises:



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27. A consolidated inventory database; and a product identification database is a well-known practice in the art. Patent Publication No. US2002/0083077A1 to David Vardi clearly demonstrates the consolidation of databases is well-known and old practice in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to include the well known practice of such consolidation of collected data includes standardization, consolidation or correlation of the information gathered from different sources and supplies it to an analyzer and report generator that provides the information to a user in a format that is easier to use.

28. As per claim 12, Walker teaches all the limitations of claim 11, further the storage medium is located externally from the collaboration agent (See Walker Figures 1-8).

29. As per claim 16, Walker teaches all the limitations of claim 7, further the database manager further comprises a data management function which, when invoked, enables a user to modify product attribute information. The function of the management interface is an essential and integral part of any common database management system in order to control, access, and manage the data base tables as well as data collected. As it can be seen in the examples of the Patent Publication No. US2002/0083077A1 to David Vardi. Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to make such interface to access the data elements as well as for maintenance of the database system to have such an interface for added control and enhancement of data tables and collected data within them.

30. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response,

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to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

***Conclusion***

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

32. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

33. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to **Kambiz Abdi** whose telephone number is **(571) 272-6702**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **(571) 272-6712**.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington, D.C. 20231**

or faxed to:

**(571) 273-8300** [Official communications; including After Final communications labeled "Box AF"]

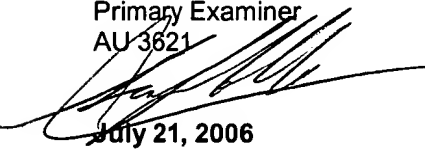
**(571) 273-6702** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the Examiner in the

**Knox Building, 50 Dulany St. Alexandria, VA.**

**Kambiz Abdi**  
Primary Examiner  
AU 3621

**KAMBIZ ABDI**  
**PRIMARY EXAMINER**

  
**July 21, 2006**